

Burke and Natural Rights

By Russell Kirk

EDMUND BURKE was at once a chief exponent of the Ciceronian doctrine of natural law and a chief opponent of the "rights of man." In our time, which is experiencing simultaneously a revival of interest in natural-law theory and an enthusiasm for defining "human rights" that is exemplified by the United Nations' lengthy declaration, Burke's view of the natural juridic order deserves close attention.

Unlike Bolingbroke and Hume, whose outward politics in some respects resembled the great Whig statesman's, Burke was a pious man. "The most important questions about the human race Burke answered . . . from the Church of England's catechism."¹ He takes for granted a Christian cosmos, in which a just God has established moral principles for man's salvation. God has given man law, and with that law, rights; such, succinctly, is Burke's premise in all moral and juridical questions. The religion of Edmund Burke is a very interesting topic which cannot be examined in detail here; but it needs to be mentioned before any consideration of Burke's political fundamentals, for he was as devout as his Tory friend Johnson. Leslie Stephen's observation that Whigs were invincibly suspicious of parsons does not apply to the greatest Whig of all. God gives us our nature, said Burke, and with it he gives us natural law. But that law, and the rights which derive from it, have been misunderstood by the modern mind — thus Burke continues:

The rights of *men*, that is to say, the natural rights of mankind, are indeed sacred things; and if any public measure is proved mischievously to affect them, the objection ought to be fatal to that measure, even if no charter at all could be set up against it. If these natural rights are further affirmed and declared by express covenants, if they are clearly defined and secured against chicane, against power, and authority, by written instruments and positive engagements, they are in a still better condition: they partake not only of the sanctity of the object so secured, but of that solemn public faith itself, which secures

¹ Ross Hoffman and Paul Levack, *Burke's Politics* (New York, 1949), xiv-xv.

an object of such importance. . . . The things secured by these instruments may, without any deceitful ambiguity, be very fitly called the *chartered rights of men*.²

So Burke, between two revolutions, spoke of these claims of rights which were about to convulse the world. One notes a certain reluctance to embrace abstract and undefined rights and a contrasting affection for prerogatives definitely guaranteed by prescription and charter. Burke would soon be compelled to make his distinctions more emphatic.

Just as purpose is to be discerned, however dimly, in the procession of history, Burke contends, so there exist irrevocable enactments of Divine authority which we can endeavor to apprehend through observing humanity living and humanity dead. Man's rights exist only when man obeys God's law, for right is a child of law. Very different all this is from the "natural rights" of Locke, whose phraseology Burke often adopts; and we need hardly remark that this concept of natural right is descended from sources very different from Rousseau's, the great equalitarian's homage to the Divinity notwithstanding. Rousseau deduces natural right from a mythical primeval condition of freedom and a psychology drawn in large part from Locke; Burke's natural right is the Stoic and Ciceronian *jus naturale*, reinforced by Christian dogma and English common-law doctrine. Now Hume, from a third point of view, maintains that natural law is a matter of convention; and Bentham, from yet another, declares that natural right is an illusory tag. Burke, hostile toward both these rationalists, says that natural right is human custom conforming to Divine intent.

The Whig statesman did not look upon natural right as a weapon in political controversy: he had too much reverence for its origin. Whether in the role of reformer or of conservator, he rarely invokes natural right against his adversaries' measures or in defense of his own. He dislikes, indeed, to define it very closely; natural right is an Idea comprehended fully only by the Divine intellect; precisely where it commences and terminates, we are no fit judges. We would be presumptuous to think that divine law could not operate without the sanction of our temporal legislation. But so far as we can delineate the features of natural justice, Burke suggests, it is the expe-

² "Speech on Fox's East-India Bill," *Works of Burke* (Bohn edition), II, 176.

rience of mankind which supplies our partial knowledge of Divine law; and the experience of the species is taught to us not only through history, but through tradition, prejudice, prescription.

From the beginning to the end of his career, Burke detested the idyllic fantasy of a free, happy, lawless, and unpropertied state of nature which Rousseau popularized. Neither history nor tradition, Burke thundered, sustain this idea of a primeval condition in which man, unfettered by convention, lived contentedly according to the easy impulses of natural right. Natural law can exist in our cognizance only so far as it is embodied in social prescription or charter. We know God's law only through our own laws that attempt to copy His; for he has given us no facile covenant, no utopian constitution. (One may remark here the strong tinge of Aristotle in Burke's first principles.) Most certainly, as Cicero demonstrates, human law is not sufficient unto itself; our imperfect statutes are merely a striving toward an eternal order of justice; but God seldom literally writes upon a wall. We grope toward His justice slowly and feebly, out of the ancient imperfections of our nature.

Although it is foolish to believe that man can follow natural law without the definitions of social law, Burke implies, it is quite as conceited to attempt defining in statutory enactment the whole of natural law. God, and God's nature (for Burke would have reversed the Jeffersonian phrase) can indeed guide us to knowledge of justice, but we need to remember that God is the guide, not the follower. Vainglorious man in the role of guide, equipped with a map compiled from his own abstractions, would lead society to destruction. The work which first brought Burke to public notice was his *Vindication of Natural Society*, that burlesque both of rationalism and of the idyllic fantasy; and the *Regicide Peace*, glowing with his dying brilliance, is emphatic in its distinction between the real and the pretended rights of men. Burke was always on his guard against concepts of natural law that were dangerously vague and concepts that were fatuously exact.

Like Dr. Johnson, Burke loathed the idea of nature unrefined; for "art is man's nature," he wrote. In Burke's view, as in Aristotle's, human nature is man's at his highest, not at his simplest. "Never, no never, did Nature say one thing and Wisdom say another. Nor are sentiments of elevation in themselves turgid and unnatural. Nature is never more truly herself than in her grandest forms. The

Apollo of Belvedere (if the universal robber has yet left him at Belvedere) is as much in nature as any figure from the pencil of Rembrandt or any clown in the rustic revels of Teniers."³

Not "natural" man, but civilized man, is the object of Burke's solicitude. And if we apply the "natural rights" possessed by a hypothetical savage to the much more real and valuable privileges of an Englishman — why, terrible risk is the consequence:

These metaphysic rights entering into common life, like rays of light which pierce into a dense medium, are, by the laws of nature, refracted from their straight line. Indeed in the gross and complicated mass of human passions and concerns, the primitive rights of men undergo such a variety of refractions and reflections, that it becomes absurd to talk of them as if they continued in the simplicity of their original direction. The nature of man is intricate; the objects of society are of the greatest possible complexity: and therefore no simple disposition or direction of power can be suitable to man's nature, or to the quality of his affairs. When I hear the simplicity of contrivance aimed at and boasted of in any new political constitutions, I am at no loss to decide that the artificers are grossly ignorant of their trade, or totally negligent of their duty.⁴

Social primitivism, the persistent error of so many modern sociologists, never was demolished more cogently. Burke returned to the subject in his *Tracts on the Popery Laws* (published posthumously):

Everybody is satisfied, that a conservation and secure enjoyment of our natural rights is the great and ultimate purpose of civil society; and that therefore all forms whatsoever of government are only good as they are subservient to that purpose to which they are entirely subordinate. Now, to aim at the establishment of any form of government by sacrificing what is the substance of it; to take away, or at least to suspend, the rights of nature, in order to an approved system for the protection of them . . . is a procedure as preposterous and absurd in argument as it is oppressive and cruel in its effect.⁵

The common sense Burke so often praises is displayed to advantage in all his arguments concerning natural right; for they were drawn from a common-sense piety. In defending class and order, he attacks once more the equalitarian assumption that a state of natural anarchy was beneficent:

³ "Letters on a Regicide Peace," *Works*, V, 278.

⁴ "Reflections on the Revolution in France," *Works*, II, 334-335.

⁵ "Tracts on the Popery Laws," *Works*, VI, 29-30.

The state of civil society, which necessarily generates this aristocracy, is a state of nature; and much more truly so than a savage and incoherent mode of life. For man is by nature reasonable; and he is never perfectly in his natural state, but when he is placed where reason may be best cultivated, and most predominates. Art is man's nature. We are as much, at least, in a state of nature in formed manhood, as in immature and helpless infancy.⁶

Here as elsewhere, Burke is readier to say what the laws of nature are *not* than to tell what they are; nor does he attempt hiding his reluctance to enter into exact definition. He writes of his enemies, the equalitarian metaphysicians:

The pretended rights of these theorists are all extremes: and in proportion as they are metaphysically true, they are morally and politically false. The rights of men are in a sort of *middle*, incapable of definition, but not impossible to be discerned. The rights of men in government are their advantages; and these are often in balances between differences of good; in compromises between good and evil, and sometimes between evil and evil. . . . Men have no right to what is not reasonable, and to what is not for their benefit. . . .⁷

Natural right, he goes on to explain, is not identical with popular power; and if it fails to accord with justice, it ceases to be a right. For the *administration* of justice (although justice itself has an origin higher than human contrivance) is a beneficial artificiality, the product of social utility. The chief purpose of social compacts is to facilitate this administration of justice. To obtain it, "natural" man gave up long ago (and by his implied assent continues to surrender) the anarchic freedom which is inconsistent with justice. This social compact is very real to Burke—not an historical compact, not a mere stock-company agreement, but rather a contract that is re-affirmed in every generation, in every year and day, by every man who puts his trust in another. For our common welfare, our ancestors agreed, and we agree today, and our descendants will agree, to yield up an unrewarding natural "freedom" in order to receive the benefits of trust enforced by justice. Accordingly, no natural right exists which excuses man from obedience to the administration of justice:

One of the first motives to civil society, and which becomes one of its fundamental rules, is *that no man should be judge in his own cause*. By this each person has at once divested himself of the first funda-

⁶ "Appeal from the New Whigs to the Old," *Works*, III, 86-87.

⁷ "Reflections on the Revolution in France," *Works*, II, 335.

mental right of uncovenanted man, that is, to judge for himself, and to assert his own cause. He abdicates all right to be his own governor. He inclusively, in a great measure, abandons the right of self-defense, the first law of nature. Men cannot enjoy the rights of an uncivil and of a civil state together. That he may obtain justice, he gives up his right of determining what it is in points the most essential to him. That he may secure some liberty, he makes a surrender in trust of the whole of it.⁸

A surrender *in trust*, we note: violation of that trust can justify resistance, but nothing else can. Not only the dictates of justice bind man to mutual dependence, but the dictates of general morality also. Neither the savage nor the civilized man can help elbowing his neighbors; and whatever he does, in some degree his "natural" freedom must be restrained, for it endangers the prerogative of others. The French devotion to "absolute liberty"—still demanded without qualification by Lamartine, half a century after Burke wrote—was historical and social nonsense:

As to the right of men to act anywhere according to their pleasure, without any moral tie, no such right exists. Men are never in a state of *total* independence of each other. It is not the condition of our nature: nor is it conceivable how any man can pursue a considerable course of action without its having some effect upon others; or, of course, without producing some degree of responsibility for his conduct.⁹

And natural rights do not exist independent of circumstances; what may be a right on one occasion and for one man may be unjust folly for another man at a different time. Prudence is the test of actual right. Society may deny men prerogatives because they are unfit to exercise them. "But whether this denial be wise or foolish, just or unjust, prudent or cowardly, depends entirely on the state of the man's means."¹⁰

All of these things, natural right is *not*. Of what, then, does it consist? Of very practical and indispensable benefits, Burke declares, the preservation of which is the chief aim of this mundane order.

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Burke's best description of true natural right occurs in the *Reflections*:

⁸ *Ibid.*, *Works*, II, 332-333.

⁹ "Letters on a Regicide Peace," *Works*, V, 216.

¹⁰ "Speech on the Petition of the Unitarians," *Works*, VI, 124.

Far am I from denying in theory, full as far is my heart from withholding in practice, (if I were of power to give or to withhold,) the *real* rights of men. In denying their false claims of right, I do not mean to injure those which are real, and are such as their pretended rights would totally destroy. If civil society be made for the advantage of man, all the advantages for which it is made become his right. It is an institution of beneficence; and law itself is only beneficence acting by a rule. Men have a right to live by that rule; they have a right to do justice, as between their fellows, whether their fellows are in public function or in ordinary occupation. They have a right to the fruits of their industry, and to the means of making their industry fruitful. They have a right to the acquisitions of their parents; to the nourishment and improvement of their offspring; to instruction in life, and to consolation in death. Whatever each man can separately do, without trespassing upon others, he has a right to do for himself; and he has a right to a fair portion of all which society, with all its combinations of skill and force, can do in his favor. In this partnership all men have equal rights; but not to equal things. He that has but five shillings in the partnership, has as good a right to it, as he that has five hundred pounds has to his larger proportion. But he has not a right to an equal dividend in the product of the joint stock; and as to the share of power, authority, and direction which each individual ought to have in the management of the *state*, that I must deny to be amongst the direct original rights of man in civil society; for I have in my contemplation the civil social man, and no other. It is a thing to be settled by convention.¹¹

In all Burke's works, the passage above is perhaps his most important contribution to political thought. Equal justice is indeed a natural right; but equal dividend is assuredly no right at all. The laws of nature, ordained by Divine wisdom, make no provision for sharing good without regard for individual energies or merits, nor is political power naturally equalitarian. How far economic and political leveling should be carried is a question to be determined by recourse to prudence, Burke's favorite virtue. Security from trespass is a natural right; power to trespass is none. To assure the reign of justice and to protect the share of each man in the social partnership, government is established. Government is a practical creation, to be administered according to practical considerations; for Burke distinguishes between the "state," or social being, which he says is ordained by God, and "government," or political administration, which is the result of utility:

11 "Reflections on the Revolution in France," *Works*, II, 331-332.

The foundation of government is . . . laid, not in imaginary rights of men, (which at best is a confusion of judicial with civil principles,) but in political convenience, and in human nature; either as that nature is universal, or as it is modified by local habits and social aptitudes. The foundation of government . . . is laid in a provision for our wants, and in a conformity to our duties; it is to purvey for the one; it is to enforce the other.¹²

Infatuation with abstract right in the practical concerns of government must end in anarchy, in a fiery and intolerant individualism. Even parliaments cannot endure if the doctrinaires of natural right are triumphant, for any form of representative government is in some degree an invasion of "absolute liberty." Here Burke assails Rousseau's inchoate vision of a general will, in which all men participate without the interposition of parliamentary institutions.

. . . they who plead an absolute right cannot be satisfied with anything short of personal representation, because all *natural* rights must be the rights of individuals; as by *nature* there is no such thing as politic or corporate personality; all these things are mere fictions of law, they are creatures of voluntary institution; men as men are individuals, and nothing else. They, therefore, who reject the principle of natural and personal representation, are essentially and eternally at variance with those who claim it. As to the first sort of reformers, it is ridiculous to talk to them of the British constitution upon any or upon all of its bases; for they lay it down that every man ought to govern himself, and that where he cannot go himself he must send his representative; that all other government is usurpation; and is so far from having a claim to our obedience, it is not only our right, but our duty, to resist it.¹³

Such a fanatic determination to participate personally in the complexities of government is sure to undo the very "natural rights" for which it is so zealous; since before very long, government so conducted tumbles into anarchy, right of any sort dissolves, Burke pronounces. To such catastrophes the confusion of pretended rights of men with their real rights always tends.

For Burke, then, the true natural rights of men are equal justice, security of labor and property, the amenities of civilized institutions, and the benefits of orderly society. These are the purposes for which God willed the state, and history demonstrates that they are the rights desired by the *true* natural man, man civilized and therefore mature, the civil social man. These genuine rights, without which

¹² "Appeal from the New Whigs to the Old," *Works*, III, 109.

¹³ "Speech on the Reform of Representation," *Works*, VI, 145.

government is usurpation, Burke contrasts with the fancied and delusory "rights of men" so fiercely pursued across the Channel—"rights" which really are the negation of justice, because (impossible contingency) if actually attained, they would immediately infringe one upon another and precipitate man into moral and civil chaos. "Absolute liberty," "absolute equality," and similar fancies, far from being natural rights, are conspicuously unnatural conditions (using the term "nature" in Rousseau's sense) for they can exist, even temporarily, only in highly civilized states. In confounding matters of social convenience and convention with the subtle and almost indefinable natural order of God, the philosophers of the Enlightenment and the followers of Rousseau threaten society with the dissolution of artificial institutions.

Upon these grounds, Burke rejects contemptuously the arbitrary and abstract "natural right" of the metaphysicians of his century, whether adherents of Locke or of Rousseau. Yet natural principle society must have, if men are to be saved from their passions. What other basis exists for realizing the natural moral order in society? "Reason," Voltaire might have answered; "Utility," Bentham was to declare; "material satisfaction of the masses," the Marxists would reply half a century later. Burke looked upon reason as a feeble prop, insufficient to most men; utility was for him a test only of means, not of ends; and material satisfaction he thought a grossly low aspiration. Another foundation for social principle is Burke's. "Obey the Divine design"—so one might paraphrase his concept of obedience to a natural order. How do we find the means of dutiful obedience? By a proper regard for prescription and prejudice. The collective wisdom of the species, the filtered experience of mankind, can save us from the anarchy of "rights of man" and the presumption of "reason."

True obedience to the dictates of nature requires reverence for the past and solicitude for the future. "Nature" is not the mere sensation of the passing moment; it is eternal, though we evanescent men experience only a fragment of it. An enthusiast for abstract "natural right" may obstruct the operation of true natural law; we have no right to imperil the happiness of posterity by impudently tinkering with the heritage of humanity.

. . . a nation is not an idea only of local extent, and individual momentary aggregation; but it is an idea of continuity, which extends in time

as well as in numbers and in space. And this is a choice not only of one day, or one set of people, not a tumultuary and giddy choice; it is a deliberate election of ages and of generations; it is a constitution made by what is ten thousand times better than choice, it is made by the peculiar circumstances, occasions, tempers, dispositions, and moral, civil, and social habitudes of the people, which disclose themselves only in a long space of time. It is a vestment, which accommodates itself to the body. Nor is prescription of government formed upon blind, unmeaning prejudices—for man is a most unwise and a most wise being. The individual is foolish; the multitude, for the moment, is foolish, when they act without deliberation; but the species is wise, and, when time is given to it, as a species it always acts right.¹⁴

So much for Burke's general view of the natural-rights controversy. Enunciating general principles only with reluctance and impatience if they were divorced from particular practical questions, Burke applied these views immediately to the great equalitarian movement of his time. Social and political equality, he declared, do not fall within the category of the *real* rights of men. On the contrary, hierarchy and aristocracy are the natural, the original, framework of society; if we modify their influence, it is from prudence and convention, not in obedience to "natural right." These are the premises upon which he rests his case against leveling and his praise of natural aristocracy.

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Is any sort of equality consequent upon the nature which God has bestowed on us? One sort only, says Burke: moral equality. God judges us not by our worldly condition, but by our goodness, and this, after all, transcends a mundane political equality. Reproaching the French, Burke expresses this opinion in a passage full of that beauty of pathos he frequently employed:

... you would have had a protected, satisfied, laborious, and obedient people, taught to seek and to recognize the happiness that is to be found by virtue in all conditions; in which consists the true moral equality of mankind, and not in that monstrous fiction, which, by inspiring false ideas and vain expectations into men destined to travel in the obscure walk of laborious life, serves only to aggravate and embitter that real inequality, which it never can remove; and which the order of civil life establishes as much for the benefit of those whom it must leave in a humble state, as those whom it is able to exalt to a condition more splendid, but not more happy.¹⁵

¹⁴ "Speech on the Reform of Representation," *Works*, VI, 146-147.

¹⁵ "Reflections on the Revolution in France," *Works*, II, 310.

In nature, obviously men are unequal: unequal in mind, in body, in energies, in every material circumstance. The less civilized a society, and the more will and appetite prevail unchecked, the less equal is the position of individuals. Equality is the product of art, not of nature; and if social leveling is carried so far as to obliterate order and class, reducing a man to "glory in belonging to the Chequer No. 71," art will have been employed to deface God's design of man's real character. Burke loathed the barren monotony of any society stripped of diversity and individuality; and he predicted that such a state must presently sink into a fresh condition of inequality, that of one master, or a handful of masters, and a people of slaves.

And majority rule is no more a natural right than is equality. When we accept the principle of majority rule in politics, we agree to it out of prudence and expediency, not because of an abstract moral injunction. Possessing the franchise, holding office, and entrusting powers to the people—all these are questions to be settled by practical considerations, varying in time, circumstances, and the temper of a nation. Democracy may be wholly bad, or admissible with certain modifications, or wholly desirable, according to the country, the age, and the particular conditions under which it is adopted. Burke cites Montesquieu in support of this position. Moreover, he says, if we appeal to the natural order of things, we will destroy majority rule, because this mode of decision is a highly elaborate artifice:

We are so little affected by things which are habitual, that we consider this idea of the decision of a *majority* as if it were a law of our original nature: but such constructive whole, residing in a part only, is one of the most violent fictions of positive law, that ever has been or can be made on the principles of artificial incorporation. Out of civil society nature knows nothing of it; nor are men, even when arranged according to civil order, otherwise than by very long training, brought at all to submit to it. . . . This mode of decision, where wills may be so nearly equal, where, according to circumstances, the smaller number may be the stronger force, and where apparent reason may be all upon one side, and on the other little else than impetuous appetite; all this must be the result of a very particular and special convention, confirmed afterwards by long habits of obedience, by a sort of discipline in society, and by a strong hand, vested with stationary, permanent power, to enforce this sort of constructive general will.¹⁶

16 "Appeal from the New Whigs to the Old," *Works*, III, 82-83.

As the most eloquent champion of parliamentary liberties, Burke believed in majority rule, properly understood. But expediency always puts the question, what constitutes a true majority? Dismissing the "natural right" of men to exercise political power as a fiction without historical or physical or moral foundation, Burke maintains that a proper majority can be drawn only from a body qualified by tradition, station, education, property, and moral nature to exercise the political function. In Britain, this body, "the people," included some four hundred thousand persons, Burke said; and a competent majority should be a majority of these men, not merely of the whole population taken indiscriminately. Sharing in political power is no immutable right, but rather a privilege to be extended or contracted as the intelligence and integrity of the population warrant: "It is perfectly clear, that, out of a state of civil society, majority and minority are relations which can have no existence; and that, in civil society, its own specific conventions in each corporation determine what it is that constitutes the people, so as to make their act the signification of the general will. . . . And I see as little of policy or utility, as there is of right, in laying down a principle that a majority of men, told by the head are to be considered as the people, and that as such their will is to be law."¹⁷

If natural right be called into question, indeed, men do possess a natural right to be *restrained* from meddling with political authority in a fashion for which they are unqualified and which could bring them nothing but harm. The nature which God has given us is not simply a nature of license; it is also a nature of discipline. Not every real natural right which man possesses is at all times palatable to him; but the limitations of our nature are designed for our protection.

Government is a contrivance of human wisdom to provide for human *wants*. Men have a right that these wants should be provided for by this wisdom. Among these wants is to be reckoned the want, out of civil society, of a sufficient restraint upon their passions. Society requires not only that the passions of individuals should be subjected, but that even in the mass and body, as well as in the individuals, the inclinations of men should frequently be thwarted, their will controlled, and their passions brought into subjection. This can only be done *by a power out of themselves*; and not, in the exercise of its func-

¹⁷ *Ibid.*, 85.

tion, subject to that will and to those passions which it is its office to bridle and subdue. In this sense the restraints on men, as well as their liberties, are to be reckoned among their rights. But as the liberties and restrictions vary with times and circumstances, and admit of infinite modifications, they cannot be settled upon any abstract rule; and nothing is so foolish as to discuss them upon that principle.¹⁸

Burke's denial of the theory of omniscient majorities and the one-man, one-vote idea of democracy is at its most vigorous in an earlier passage from the *Reflections*: "It is said, that twenty-four millions ought to prevail over two hundred thousand. True; if the constitution of a kingdom be a problem of arithmetic. This sort of discourse does well enough with the lamp-post for its second."¹⁹

Though Burke's political principles have so largely given ground before utilitarian and equalitarian ideas in our age, his penetrating criticism of the natural-rights concept of democratic political authority has vanquished the abstractions of his opponents. Intelligent supporters of democracy in this century find the basis for a wide diffusion of political power in expediency, not in a natural law of equality. David Thomson expresses this prevailing opinion, which Burke and Disraeli impressed upon political thought: "The case for universal suffrage and political equality does not rest on any superstition that all men, by acquiring the vote, will become equally wise or equally intelligent. It rests, both historically and philosophically, on the belief that if any section of the community is deprived of the ability to vote, then its interests are liable to be neglected and a nexus of grievances is likely to be created which will fester in the body politic."²⁰

Political equality is, therefore, in some sense unnatural, Burke concludes; and aristocracy, on the other hand, is in a certain sense natural. The Whig leader admired aristocracy only with numerous and large reservations: "I am no friend to aristocracy, in the sense at least in which that word is usually understood."²¹ Unchecked, it is "an austere and insolent domination." "If it should come to the last extremity, and to a contest of blood, God forbid! God forbid! — my part is taken; I would take my fate with the poor, and low,

18 "Reflections on the Revolution in France," *Works*, II, 333.

19 *Ibid.*, 325.

20 Thomson, *Equality* (Cambridge, England, 1949), 68.

21 "Thoughts on the Present Discontents," *Works*, I, 323.

and feeble.”²² But nature has furnished society with the materials for a species of aristocracy which the wisely-conducted state will recognize and honor — always reserving, however, a counterpoise to aristocratic ambition. Just as it is a fact of nature that the mass of men are ill-qualified for the exercise of political power, so it is written in the eternal constitution of things that a few men, from various causes, are mentally and spiritually, and physically suited for social leadership. The state which rejects their services is doomed to stagnation or destruction. These aristocrats are in part “the wiser, the more expert, and the more opulent,” and they are to conduct, enlighten, and protect “the weaker, the less knowing, and the less provided with the goods of fortune.”²³ Birth, too, Burke respects; but he mentions more particularly the clergy, the magistracy, the teachers, the merchants: nature, not the accident of birth, has made these men aristocrats. It is wise and just and in accord with the real law of nature that such persons should exercise a social influence much superior to that of the average citizen. There is that noble passage which has exerted so considerable an influence upon subsequent thought, and may have had some share in preserving British and American constitutional democracy:

A true natural aristocracy is not a separate interest in the state, or separable from it. It is an essential integrant part of any large body rightly constituted. It is formed out of a class of legitimate presumptions, which taken as generalities, must be admitted for actual truths. To be bred in a place of estimation; to see nothing low and sordid from one's infancy; to be taught to respect one's self; to be habituated to the censorial inspection of the public eye; to look early to public opinion; to stand upon such elevated ground as to be enabled to take a large view of the wide-spread and infinitely diversified combinations of men and affairs in a large society; to have leisure to read, to reflect, to converse; to be enabled to draw the court and attention of the wise and learned wherever they are to be found;—to be habituated in armies to command and to obey; to be taught to despise danger in the pursuit of honor and duty; to be formed to the greatest degree of vigilance, foresight and circumspection, in a state of things in which no fault is committed with impunity, and the slightest mistakes draw on the most ruinous consequence—to be led to a guarded and regulated conduct, from a sense that you are considered as an instructor of your fellow-citizens in their highest concerns, and that you act as a reconciler between God and man—to be employed as an administrator of law and

²² “Speech on a Bill for Repeal of the Marriage Act,” (1781), *Works*, VI, 171.

²³ “Appeal from the New Whigs to the Old,” *Works*, III, 85.

justice, and to be thereby amongst the first benefactors to mankind—to be a professor of high science, or of liberal and ingenuous art—to be amongst rich traders, who from their success are presumed to have sharp and vigorous understandings, and to possess the virtues of diligence, order, constancy, and regularity, and to have cultivated an habitual regard to commutative justice—these are the circumstances of men, that form what I should call a *natural* aristocracy, without which there is no nation.²⁴

The ascendancy of this class is truly natural; domination of society by mediocrity is contrary to nature as Providence has revealed human nature to us throughout history. One of the duties of a statesman is to employ the abilities of the natural aristocracy in the service of the commonwealth, rather than to submerge them unnaturally in the mass of the population.

Burke's system of natural rights, in short, is much like that of the Roman jurists. "All human laws are, properly speaking, only declaratory; they may alter the mode and application, but have no power over the substance of original justice."²⁵ "Nature" is the character of man at his highest, impressed upon him by God. Man's rights are linked with man's duties, and when they are distorted into extravagant claims for a species of freedom and equality and worldly advancement which human character is not designed to sustain, they degenerate from rights into vices. Equality in the sight of God, equality before the law, security in the possession of what is properly one's own, participation in the common activities and consolations of society—these are the true natural rights. The presumptuous demands of Rousseau, Condorcet, Helvetius, and Paine for absolute liberties and prerogatives which no state in history ever has been able to accord are the very reverse of natural justice; they are unnatural because impious, "the result of a selfish temper, and confined views." In the political sphere, these claims are absurd, for the exercise of any right must be circumscribed and modified to suit particular conditions.

Real harmony with the natural law is attained not by demanding innovation and structural alteration, Burke wrote, but through moulding society upon the model which eternal nature, physical and spiritual, sets before us:

By a constitutional policy, working after the pattern of nature, we

²⁴ *Ibid.*, 85-86.

²⁵ "Tracts on the Popery Laws," *Works*, VI, 22.

receive, we hold, we transmit our government and our privileges, in the same manner in which we enjoy and transmit our property and our lives. The institutions of policy, the goods of fortune, the gifts of providence, are handed down to us, and from us, in the same course and order. Our political system is placed in a just correspondence and symmetry with the order of the world, and with the mode of existence decreed to a permanent body composed of transitory parts; wherein, by the disposition of a stupendous wisdom, moulding together the great mysterious incorporation of the human race, the whole, at one time, is never old, or middle-aged, or young, but, in a condition of unchangeable constancy, moves on through the varied tenor of perpetual decay, fall, renovation, and progression. Thus, by preserving the method of nature in the conduct of the state, in what we improve, we are never wholly new. . . .²⁶

Political reform and impartial justice conducted upon these principles, said Burke, embody the humility and prudence which men must cultivate if they are to form part of a purposeful moral universe. These profound observations, and this theory of natural law and natural rights, made Burke the founder of philosophical conservatism.

²⁶ "Reflections on the Revolution in France," *Works*, II, 307.